



May 25, 2001

Ms. Sally L. Crawford
Jones, Day, Reavis & Pogue
P.O. Box 660623
Dallas, Texas 75266-0623

OR2000-2167

Dear Ms. Crawford:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 147664.

The Dallas Convention and Visitors Bureau (the "CVB"), which you represent, received a request for (1) "copies of correspondence between the [CVB] and the Big 12 Conference as it relates to the men's and women's basketball tournaments," namely, the CVB's formal response to the Big 12 Conference's request for a proposal, and (2) all contracts between the CVB and the Dallas Regional Sports Commission (the "Sports Commission"). You contend that no proposal was submitted to the Big 12 Conference by or on behalf of the CVB. You further contend that there are no contracts between the CVB and the Sports Commission. The requestor and representatives of the requestor have also submitted arguments to this office. We have considered all of the submitted arguments.

Initially, we note that the Public Information Act does not require a governmental body to make available information which does not exist, nor does it require a governmental body to prepare new information. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 (1992), 362 (1983). Nevertheless, the CVB must make a good faith effort to relate a request to information it holds. Open Records Decision No. 87 (1975); see Gov't Code § 552.353 (providing penalties for failure to permit access to public information). With respect to the requestor's March 20, 2001 request for copies of all contracts between the CVB and the Sports Commission, you indicate that there are no such contracts. Based on your representation that no information exists responsive to the requestor's March 20 request, we conclude that the CVB is not required to produce information in response to the request.

With respect to the requestor's March 12, 2001 request for correspondence between the CVB and the Big 12 Conference, you indicate that the CVB did not submit a proposal to the Big 12 Conference, nor was a proposal submitted on behalf of the CVB. Rather, you state that the Host Organizing Committee, a predecessor of the Sports Commission, was responsible for submitting a proposal to the Big 12 Conference for hosting the Big 12 Conference's basketball tournaments. Furthermore, although two members of the six-member Host Organizing Committee also held positions with the CVB, you indicate that the Host Committee acted on behalf of the Sports Commission, not the CVB, in preparing and submitting the proposal. Based on your contentions, we agree that the proposal submitted by the Host Committee to the Big 12 Conference is not responsive to the request for "copies of correspondence between the [CVB] and the Big 12 Conference as it relates to the men's and women's basketball tournaments." Therefore, we do not address whether the CVB must provide the requestor the Host Committee's proposal.¹

Nevertheless, you indicate that the CVB did submit a letter dated July 14, 1999, to the Big 12 Conference in support of the Host Committee's proposal. We believe that this letter is responsive to the requestor's March 12, 2001 request. Because you have not submitted this letter for our review and do not argue that this letter should be withheld, we have no basis for concluding that the information is confidential. Therefore, we have no choice but to conclude that the CVB must release to the requestor the July 14, 1999 letter. *See* Gov't Code §§ 552.021, .301, .302. Likewise, the CVB must release any other correspondence with the Big 12 Conference concerning the Big 12 Conference's 1999 request for a proposal on its men's and women's basketball tournaments. *See id.* §§ 552.021, .301, .302.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

¹The requestor's representative argues that this office should not address the CVB's arguments and deem the requested information open to the public because the CVB failed to meet its deadlines for requesting a decision from this office under section 552.301 of the Government Code. When a requestor fails to meet its deadlines under section 552.301, the information is presumed to be public and must be released unless there is a compelling reason to withhold the information. *See* Gov't Code §§ 552.301, .302. Because we find that the Host Committee's proposal is not responsive to the instant request for information, we do not reach the requestor's representative's section 552.301 argument with respect to the Host Committee's proposal.

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/sdk

Ref: ID# 147664

c: Mr. Steve Rock
Reporter
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